

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO**

PETER DAVID SCHIFF

Plaintiff,

v.

INTERNAL REVENUE SERVICE, et al.,

Defendants.

CIVIL NO.: 24-1511 (CVR)

REPORT AND RECOMMENDATION

On November 4, 2024, plaintiff Peter David Schiff (“Plaintiff”) filed a complaint, alleging violations of 42 U.S.C. § 1983, 42 U.S.C. § 1985(3), and an independent claim under *Bivens v. Six Unknown Named Agents of the Federal Bureau of Narcotics*, 403 U.S. 388 (1971) against the following defendants: the Internal Revenue Services (“IRS”), the United States of America (“United States”), Jim Lee (“Mr. Lee”) in his individual and official capacities as former IRS Chief of Criminal Investigations, the Office of the Commissioner of Financial Institutions of Puerto Rico (“OCIF” as per its Spanish acronym), Natalia Zequeira Díaz (“Commissioner Zequeira Díaz”) in her individual and official capacity as an OCIF Commissioner, Wigberto Lugo-Mender (“Mr. Lugo”) in his official capacity an OCIF Trustee, Will Day (“Mr. Day”) in his individual and official capacity as an Australian Taxation Office (“ATO”) representative, Eric Ferron (“Mr. Ferron”) in his individual and official capacity as a Canada Revenue Agency (“CRA”) representative, Niels Obbink (“Mr. Obbink”) in his individual and official capacity as a Fiscale Inlichtingen-en Opsporingsdienst (“FIOD”) representative, Simon York (“Mr. York”) in his individual and official capacity as His Majesty’s Revenue and Customs (“HMRC”) representative, Matthew Goldstein

(“Mr. Goldstein”) in his individual capacity as a New York Times reporter, The New York Times, Inc. (“NYT”), The Age, a newspaper in Melbourne, Australia, Charlotte Grieve (“Ms. Grieve”) in her individual capacity as a journalist at The Age, and Nick McKenzie (“Mr. McKenzie”) in his individual capacity as a journalist at The Age. ECF No. 1. On November 14, 2024, on Order by the Court, Plaintiff filed an amended complaint. ECF No. 10.

On January 15, 2025, OCIF and Commissioner Zequeira Díaz filed a motion to dismiss Plaintiff’s complaint pursuant to Federal Rules of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction and 12(b)(6) for failure to state a claim upon which relief can be granted. ECF No. 31. On the same date, Mr. Lugo filed a motion to dismiss Plaintiff’s complaint on the same grounds. ECF No. 32. On February 28, 2025, Mr. Goldstein and NYT filed a motion to dismiss Plaintiff’s claim against them pursuant to Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. ECF No. 58. On April 2, 2025, the United States filed a motion to dismiss Plaintiff’s complaint, on behalf of itself, the IRS, and Mr. Lee in his official capacity, pursuant to Federal Rule of Civil Procedure 12(b)(1) for lack of subject matter jurisdiction. ECF No. 81. Lastly, on May 8, 2025, The Age, Ms. Grieve, and Mr. McKenzie filed a motion to dismiss Plaintiff’s claim against them pursuant to Federal Rule of Civil Procedure 12(b)(2) for lack of personal jurisdiction, Federal Rule of Civil Procedure 12(b)(5) for improper service, and Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim upon which relief can be granted. ECF No. 95. In light of the Court granting Plaintiff’s request to amend once again the complaint (ECF Nos. 118, 119) and the Plaintiff’s filing of a second amended complaint (ECF No. 121), it is recommended that the aforementioned motions to dismiss (ECF Nos. 31, 32, 58, 81, 95) be DENIED WITHOUT PREJUDICE.

The parties have fourteen (14) days to file any objections to this report and recommendation unless otherwise ordered by the court. Failure to file the same within the specified time waives the

right to object to this report and recommendation. Fed. R. Civ. P. 72(b)(2); Fed. R. Civ. P. 6(c)(1)(B); D.P.R. Civ. R. 72(d); *see also* 28 U.S.C. § 636(b)(1); *Henley Drilling Co. v. McGee*, 36 F.3d 143, 150–51 (1st Cir. 1994); *United States v. Valencia*, 792 F.2d 4 (1st Cir. 1986).

IT IS SO RECOMMENDED

In San Juan, Puerto Rico, this 6th day of June, 2025.

s/Marcos E. López
U.S. Magistrate Judge